IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 23RD MARCH 2007 / 2ND CHAITHRA 1929

Crl.MC.No. 855 of 2007()

(C.P.NO.16/07 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, KASARGOD)

PETITIONER: ACCUSED NO.5 IN CR.NO.227/06

V.N.MUHAMMED FAIZAL, AGED 30 YEARS,
ABDUL HAKKIM V.M., RESIDING AT VATTAKKANDI
NALAKATHU HOUSE, PAPPINISSERY, KANNUR DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.K.P.HARISH

RESPONDENTS: COMPLAINANT

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1. STATE - REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE STATION HOUSE OFFICER,
(CR.NO.227/06 OF MANJESHWARAM POLICE STATION),
KASARAGOD DISTRICT.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.855 of 2007

Dated this the 23rd day of March 2007

O R D E R

The petitioner faces indictment in a prosecution for the offence punishable interalia under Section 308 read with 149 I.P.C. According to him, he has not been served at all. He has therefore not appeared before the learned Magistrate. The learned Magistrate, in the committal proceedings, has issued a non-bailable warrant to secure the presence of the petitioner. The petitioner now wants to surrender before the learned Magistrate but apprehends that the learned Magistrate may not consider his application for bail on merits, in accordance with law and expeditiously.

2. I find no basis in the apprehension at all. Sufficient general directions have already been issued in Alice George vs.Deputy Superintendent of Police [2003(1)KLT 339]. I have no reason to assume that the learned Magistrate is not aware of the said decision or shall not comply with the said decision. He must do the same.

3. In the result, this Criminal Miscellaneous Case is dismissed but with the observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself unless there are exceptional and compelling reasons.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

// True Copy//

PA to Judge.

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006